

**REMARKS****STATUS OF CLAIMS**

The Office Action dated May 1, 2002 has been received and its contents carefully considered. Claims 1-22 are pending. Claims 2-4, 8, 12-14, 16, 17, 20 and 21 have been amended. Claims 1, 10, 11 and 19 have been canceled without prejudice or disclaimer. Claims 4, 14 and 20 are independent.

Reconsideration and withdrawal of the outstanding rejections are respectfully requested in view of the following remarks.

**OFFICE ACTION**

Claims 10, 12, 17 and 19 were rejected under 35 U.S.C. §102(b) as being anticipated by Howard '531. Claims 1-3 and 8 were rejected under 35 U.S.C. §103(a) as being unpatentable over Howard 531. Claims 4-7, 9, 11, 14-16, 18 and 20-22 were rejected under 35 U.S.C. §103(a) as being unpatentable over Howard '531 in view of the admitted prior art. Claim 13 was not addressed in the Office Action by the Examiner but for the purposes of this response only, will be treated as belonging to the Howard '531 in view of the admitted prior art rejection above. These rejections are respectfully traversed with respect to the following reasons.

Without conceding the propriety of the rejections, claims 4, 14 and 20 have been amended to further distinguish the present invention. Claim 4 now recites a liquid level gauge; and a scale disposed on said liquid level gauge, wherein said incubator is substantially rectangular in shape with a front door coincident with a plane which includes a front face of the incubator and wherein said incubator is a water jacket incubator.

Howard '531 is not concerned with a water jacket surrounding the incubator enclosure and thus fails to teach or suggest any type of water jacket for the incubator. Fig. 1 of Howard '531 shows a water coil 6 wrapped around a lamp 5 within the interior of an incubator housing 1. This configuration clearly cannot be modified to become a water jacket which is around the interior of an incubator and not within the interior, such a modification would destroy the reference of Howard '531. Thus, the combination of Howard '531 with the admitted prior art fails to teach or suggest a liquid level gauge; and a scale disposed on said liquid level gauge, wherein said incubator is substantially rectangular in shape with a front door coincident with a plane which includes a front face of the incubator and wherein said incubator is a water jacket incubator as claimed.

Claim 14 now recites means for monitoring a level of fluid; means for adjusting the level of said fluid; and means for mounting the fluid level monitoring device into a front face of an incubator, wherein said monitoring device is mounted flush with said front face and wherein said incubator is a water jacket incubator. Howard '531 is not concerned with a water jacket surrounding the incubator enclosure and thus fails to teach or suggest any type of water jacket for the incubator. Fig. 1 of Howard '531 shows a water coil 6 wrapped around a lamp 5 within the interior of an incubator housing 1. This configuration clearly cannot be modified to become a water jacket which is around the interior of an incubator and not within the interior, such a modification would destroy the reference of Howard '531. Thus, the combination of Howard '531 with the admitted prior art fails to teach or suggest means for monitoring a level of fluid; means for adjusting the level of said fluid; and means for mounting the fluid level monitoring device into a front face of an

incubator, wherein said monitoring device is mounted flush with said front face and wherein said incubator is a water jacket incubator as claimed.

Claim 20 now recites a method of mechanically monitoring a fluid level in an incubator environment comprising visibly monitoring a liquid level in said incubator by visibly measuring a maximum and a minimum liquid level of said incubator; adjusting said liquid level in said incubator, wherein said incubator is a water jacket incubator. Howard '531 is not concerned with a water jacket surrounding the incubator enclosure and thus fails to teach or suggest any type of water jacket for the incubator. Fig. 1 of Howard '531 shows a water coil 6 wrapped around a lamp 5 within the interior of an incubator housing 1. This configuration clearly cannot be modified to become a water jacket which is around the interior of an incubator and not within the interior, such a modification would destroy the reference of Howard '531. Thus, the combination of Howard '531 with the admitted prior art fails to teach or suggest a method of mechanically monitoring a fluid level in an incubator environment comprising visibly monitoring a liquid level in said incubator by visibly measuring a maximum and a minimum liquid level of said incubator; adjusting said liquid level in said incubator, wherein said incubator is a water jacket incubator as claimed.

For the foregoing reasons, it is respectfully submitted that the invention recited in amended claims 4, 14 and 20 is patentable over Howard '531 taken alone or in combination with the admitted prior art. Thus, it is respectfully submitted that depending claims 2, 3, 5-9, 12, 13, 15-18, 21 and 22 are allowable for at least the reasons given herein.

In view of the foregoing, reconsideration and allowance of the application are believed in order, and such action is earnestly solicited.

Should the Examiner believe that a telephone conference would expedite issuance of the application, the Examiner is respectfully invited to telephone the undersigned agent at 202/861-1748.

Respectfully submitted,

BAKER & HOSTETLER LLP



Sean A. Pryor  
Registration No. 48,103

Attachment – Appendix

Washington Square, Suite 1100  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036-5304  
Telephone: 202/861-1655  
Facsimile: 202/861-1783  
Date: 7/25/02

**Appendix – Marked-up Version of Claims**

**Claims 1, 10, 11 and 19 have been canceled without prejudice or disclaimer.**

**Claims 2-4, 8, 12-14, 16, 17, 20 and 21 are amended as follows:**

4. (Amended) A mechanical fluid level monitoring device for an incubator, comprising:

a liquid level gauge; and

a scale disposed on said liquid level gauge,

wherein said incubator is substantially rectangular in shape with a front door

coincident with a plane which includes a front face of the incubator and

[The device of claim 1,] wherein said incubator is a water jacket incubator.

2. (Amended) The device of claim [1] 4, wherein said liquid level gauge is disposed on said front fact of said incubator.

3. (Amended) The device of claim [1] 4, wherein said scale is disposed on a front face of said incubator.

8. (Amended) The device of claim [1] 4, wherein said liquid level gauge is visible when said incubator is closed.

14. (Amended) A mechanical fluid level monitoring device comprising:

means for monitoring a level of fluid;

means for adjusting the level of said fluid; and

means for mounting the fluid level monitoring device into a front face of an incubator, wherein said monitoring device is mounted flush with said front face and [The device of claim 11,] wherein said incubator is a water jacket incubator.

12. (Amended) The device of claim [10] 14, wherein said monitoring means is a mechanical liquid level gauge.

13. (Amended) The device of claim [11] 14, further comprising:

means for measuring a liquid level of said incubator.

16. (Amended) The device of claim [11] 14, wherein said adjusting means includes a fill hole and a drain lock disposed on said incubator.

17. (Amended) The device of claim [11] 14, wherein said means for monitoring includes a visible sight opening window disposed on said front face of the incubator.

20. (Amended) A method of mechanically monitoring a fluid level in an incubator environment comprising:

visibly monitoring a liquid level in said incubator by visibly measuring a maximum  
and a minimum liquid level of said incubator;

adjusting said liquid level in said incubator,

[The method of claim 19,] wherein said incubator is a water jacket incubator.

21. (Amended) The method of claim [19] 20, wherein said measuring set includes] viewing  
a scale mounted flush on a front face of the incubator.